

**BellSouth Telecommunications, Inc.**  
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September 13, 2006

The Honorable Charles Terreni  
Chief Clerk of the Commission  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

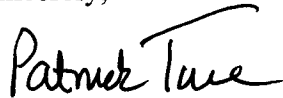
Re: Dan Dennis d/b/a Dennis Corporation v. BellSouth Telecommunications, Inc. and  
Birch Telecom of the South, Inc.  
Docket No.: 2006-239-C

Dear Mr. Terreni:

Enclosed for filing are an original and one (1) copy of the Answer of BellSouth Telecommunications, Inc. to the Complaint in the above-referenced matter. This document is an exact duplicate of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions.

By copy of this letter, I am serving all parties of record with a copy of this response as indicated on the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink that reads "Patrick W. Turner". The signature is written in a cursive, flowing style.

Patrick W. Turner

PWT/nml  
Enclosure  
cc: All Parties of Record  
PC Docs #649204

IN RE:        Dan Dennis, d/b/a Dennis Corporation  
                Complainant/Petitioner

vs.

BellSouth Telecommunications, Inc.,  
and Birch Telecom of the South, Inc.  
Defendant/Respondent

Docket No. 2006-239-C

In compliance with the Notice the Public Service Commission of South Carolina (“the Commission”) issued on August 14, 2006, BellSouth Telecommunications, Inc. (“BellSouth”) respectfully submits this Answer to the Plaintiff’s Complaint.

As explained below, it appears that Dennis Corporation desired to order retail services from Birch Telecom, Inc. (“Birch”). Ordinarily, if a competitive local exchange carrier (“CLEC”) like Birch uses BellSouth services or facilities in order to provide service to the CLEC’s end user customer, the CLEC orders those services or facilities from BellSouth’s wholesale operations pursuant to its interconnection agreement with BellSouth. In this case, however, Birch did not follow this established procedure.

Instead, Birch ordered retail services from BellSouth's retail operations in the name of Birch's retail end user, Dennis Corporation, with Dennis Corporation's knowledge and consent.

Later, at the request of Dennis Corporation's vendor and apparently with Dennis Corporation's knowledge and consent, BellSouth representatives went to Dennis Corporation's premises and performed the unregulated service of moving the demarcation point for the retail services it was providing Dennis Corporation. Still later, Dennis Corporation itself ordered additional retail services from BellSouth at the same location. It was only after BellSouth provided these retail services to Dennis Corporation that Birch sent BellSouth the wholesale order that resulted in Dennis Corporation's ceasing to be a BellSouth retail customer and beginning to be a Birch retail customer. From BellSouth's perspective, therefore, BellSouth provided retail service for a retail end user (Dennis Corporation) and appropriately billed that retail end user for those services.

While Birch, at a minimum, may not have appropriately and effectively communicated with Dennis Corporation, Dennis Corporation knew that its service initially would be provided by BellSouth. The Complaint, for instance, alleges that:

After the contract with Birch was signed, I was notified by the [Birch] account representative that BellSouth would have to do the installation. I was confused by this requirement, but Birch assured me this was a common practice and my service would be immediately switched to Birch. The Birch representative told me he would contact BellSouth to handle the arrangements.

The Complaint further alleges that when Dennis Corporation received bills from BellSouth for the retail service that BellSouth provided, "[m]y Birch representative told me not to worry about the bills, that Birch had reviewed them and they would contact BellSouth and have them taken care of," but "that never happened." As explained below, BellSouth urges the Commission to investigate Birch's conduct in this matter and to take appropriate action in light of the facts revealed by that investigation.

## **ANSWER TO THE COMPLAINT**

The Complaint is set forth in the form of a letter instead of a formal pleading with numbered paragraphs. In this Answer, therefore, BellSouth respectfully submits the facts as best BellSouth has been able to determine them at this time. BellSouth denies any facts alleged in the Complaint to the extent that they are inconsistent with the facts set forth below and to the extent that they are not expressly admitted below. BellSouth specifically denies any unethical, fraudulent, and/or damaging conduct in the way that it handled Dennis Corporation's retail account, and BellSouth denies that Dennis Corporation is entitled to any relief against BellSouth. Additionally, to the extent that the Complaint could be read to challenge BellSouth's price for any unregulated service, BellSouth respectfully submits that the Commission lacks jurisdiction over the Complaint.

Documents that Dennis Corporation has provided BellSouth indicate that Dennis Corporation signed a Master Services Agreement and Letter of Agency with Birch on or about July 1, 2005. These documents indicate that the Birch representative who dealt directly with Mr. Dennis was Carl "Toby" Hoffman, Jr., Senior Account Executive, Birch Telecom.

Subsequently, on or about July 5, 2005, one of BellSouth's retail inbound call centers received an order for retail service in the name of Dennis Corporation. The person who placed the order identified himself as "Carl, 803 212-1020" and identified "Dan Dennis or Carl" as having billing authority for the account. At the time the order was placed, nothing suggested to BellSouth that a CLEC's representative was involved in placing the order or that the order was for anything other than retail service for an end user customer. Pursuant to this order for service, therefore, BellSouth established retail service for Dennis Corporation at 5000 Thurmond Mall, Suite 114, Columbia, South Carolina 29201.

On or about July 11, 2005, a third-party vendor called in a trouble report to BellSouth on this retail account and asked BellSouth to move the demarcation point for this service. On July 12, 2005, a BellSouth technician went to 5000 Thurmond Mall, Suite 114 and performed the requested work. According to BellSouth's records, the charges for this work were authorized by the vendor's representative, and Dennis Corporation's account was charged for this work. Later, on July 18, 2005, another retail order was placed with BellSouth to add another feature to the account. BellSouth's records indicate that "Dan, 803 252-0991" was the contact for this retail order.

BellSouth sent Dennis Corporation a retail bill on or about July 11, 2005.<sup>1</sup> BellSouth received no payment for this bill and, on August 2, 2005, BellSouth sent Dennis Corporation a Service Interruption Notice for the unpaid regulated charges. On August 11, 2005, BellSouth sent a another retail bill to Dennis Corporation, which included the previous month's overdue charges, the current month's charges for regulated service, and unregulated charges for the demarcation point move. Finally, on August 15, 2005, Birch submitted a wholesale order to BellSouth that resulted in Dennis Corporation's ceasing to be a BellSouth retail customer and beginning to be a Birch retail customer. BellSouth sent a final retail bill to Dennis Corporation on September 11, 2005, but BellSouth has never received any payments on this account.

## **CONCLUSION**

Dennis Corporation seeks a formal hearing on this matter in order to "bring to light several practices that could be considered unethical, fraudulent, and damaging to Dennis Corporation." As explained above, BellSouth denies that any of its practices are unethical,

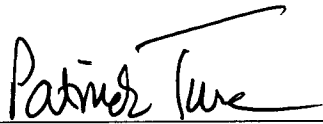
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<sup>1</sup> The bill included local service charges, other charges including service connection charges, and taxes.

fraudulent, or damaging. BellSouth, therefore, respectfully requests that the Commission dismiss the complaint as it relates to BellSouth.

BellSouth, however, believes that Birch's actions warrant investigation by the Commission. While BellSouth acknowledges that Birch has filed petitions under Chapter 11 of the United States Bankruptcy Code and that these filings ultimately may affect other parties' ability to collect any monetary payments from Birch, these filings do not limit the Commission's ability to investigate Birch's conduct and, if necessary, to take appropriate action to address that conduct. BellSouth, therefore, respectfully suggests that the Commission consider appointing a Hearing Officer for the purpose of conducting such an investigation and reporting findings and recommendations back to the Commission.

Respectfully submitted, this 13th day of September, 2006.

A handwritten signature in black ink, appearing to read "Patrick W. Turner", written over a horizontal line.

Patrick W. Turner  
1600 Williams Street, Suite 5200  
Columbia, South Carolina 29201  
ATTORNEY FOR BELL SOUTH  
TELECOMMUNICATIONS, INC.

STATE OF SOUTH CAROLINA

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CERTIFICATE OF SERVICE

COUNTY OF RICHLAND

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The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused the Answer of BellSouth Telecommunications, Inc. to the Complaint in Docket No. 2006-239-C to be served upon the following this September 13, 2006:

Dan Dennis, President  
Dennis Corporation  
5000 Thurmond Mall, Suite 114  
Columbia, SC 29201  
(Dennis Corporation)  
**(U. S. Mail and Electronic Mail)**

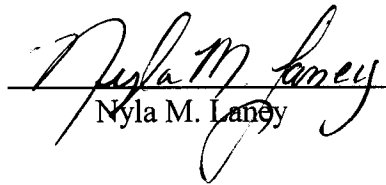
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Nyla M. Laney

PC Docs # 645227